

**February 21, 2012 Statement Before the Pharmaceutical Liability Subcommittee of the Senate  
Judiciary Committee**

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N.C. Department of Justice**

Thank you, Mr. Chairman. I appreciate the opportunity to speak today and provide a law enforcement perspective on this issue. I'll try to be brief. I'll provide the committee with a concise snapshot of some of the work the Consumer Protection Division has done in this area and express general concerns regarding any legislative efforts that would curtail our work in this regard. My colleagues from the Medicaid Fraud Unit in the Attorney General's office will be speaking after me.

At the outset, I'd like to point out that when the Consumer Protection Division pursues pharmaceutical-related matters it, depending on the case, often attempts to obtain relief for both the North Carolina general public on the whole and impacted state agencies that may have overpaid for drugs or unnecessarily purchased drugs due to the unlawful conduct of a company. So, we are often in the position of attempting to recoup taxpayer money. In this economy and challenging budget climate for the State, that's something we are focused on these days.

Also, because our resources are limited, when we pursue matters in this area we are often trying to devote our energies to matters where egregious misconduct of some sort has occurred. The matters that we have pursued, and are pursuing, do not involve mere technical violations but situations where significant misconduct and harm have taken place.

We pursue these matters under North Carolina's consumer protection statutes (Chapter 75) and other authority that the Attorney General's office has. Just to provide some representative, but not exclusive, examples, we have pursued matters where:

- Companies improperly encouraged doctors to prescribe drugs to vulnerable young kids even though the drugs were potentially dangerous for young kids and were only approved for use by adults or older kids;
- Companies improperly encouraged doctors to prescribe drugs to patients for inappropriately high doses;
- Companies knew of dangerous side effects and other problems with drugs and sat on their hands and continued to market the drugs to a public that had no way of knowing about these dangers.
- Companies engaged in unfair and unlawful acts to limit competition, causing prices for drugs to be higher than they should have been.

In many of our matters, we not only put a stop to the harmful conduct but also obtained millions of dollars of relief for the State of North Carolina.

From a law enforcement perspective, it seems to only be a matter of common sense that when a pharmaceutical company is violating North Carolina law then the appropriate North Carolina law enforcement authorities should be able to hold that company accountable and obtain appropriate relief for our consumers and state purchasers, without having their hands tied due to a new law that casts any doubt on their enforcement authority. Any legislative effort to curtail our ability to enforce the law and obtain relief for North Carolina would not seem to be in North Carolina's interest.

It simply is not sufficient to rely solely on the federal government or a federal agency to take care of North Carolina's interests. My law enforcement colleagues in the federal government do good work, and I don't want to throw them under the bus, but a federal agency has a different mandate and may not always have North Carolina's particular interests first and foremost on its agenda.

With that, I will pass things on to my Medicaid Fraud colleagues. Thank you again for the opportunity to speak, Mr. Chairman. We will be glad to answer questions or provide further information.